IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 1879 (S/S) of 2005

Anand Ballabh Joshi, S/o Late Sri H.D. Joshi
Retied Senior Accountants Clerk
At present R/o Manpur North Rampur Road, Haldwani,
District- Nainital ------- Petitioner

Versus

1. Accountant General (Uttaranchal State) Government of India Ministry of Finance Dehradun, District Dehradun
2. State of Uttaranchal through Secretary, Village Development Dehradun, District Dehradun
3. State of U.P. divisional Commissioner (Accounts) Village Development, Jawahar Bhawan, U.P., Lucknow
4. Senior Treasury Officer Nainital, District Nainital
5. State of U.P. through Secretary Rural Development, Lucknow

------- Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri Rakesh Thapliyal, learned counsel for the petitioner and Smt. Beena Pandey, learned counsel for the State of U.P. and learned Asst. S.G. for respondent no. 1.

By means of this writ petition, the petitioner has prayed for the following relief:

1. Issue a writ, order or direction in the nature of mandamus directing the respondents to re-fix the pensionary benefits including the pension of the petitioner after taking into account the last pay drawn of the petitioner as Rs. 6800/- per month.
2. Issue a further writ, order or direction in the nature of mandamus directing to the respondents to release the arrear of deference of the pensionary benefits after re-fixation of the pensionary benefits of the petitioner after taking into

account the last pay drawn as Rs. 6800/- per month and the same be paid along with the 18% penal interest per annum.

3. Issue any suitable writ, order or direction, which this Hon'ble Court may deem fit and proper on the basis of the facts and circumstances of the case.

4. Award the cost of the petition to the petitioner.

The stand of the petitioner is that at the time of retirement, he was getting Rs. 6800/- per month and as such he should have been granted pension on the basis of average of 10 months' salary, last drawn by the petitioner, which he is not being paid. However, he is being paid pension fixing salary on the basis of Rs. 6000/- per month, whereas it should have been Rs. 6800/-

The petitioner moved a representation to Additional Commissioner (Accounts), Office of Commissioner and Secretary, Rural Development, U.P., Lucknow on 3rd February, 2001 with a prayer to sanction the pension after considering the fact that he was entitled to get one increment after serving 20 years of service, which has not been granted to him and in case, the same would have been granted, he would have been entitled to get pension on the basis of average of 10 months' salary at the rate of Rs. 6800/- per month. Since, no action has been taken by the respondent no. 4 on his representation till date, he is suffering loss in not getting the pension for which he was entitled.

Respondent nos. 3 and 4 have filed short counter affidavit. The Secretary, Rural Development, State of U.P., Lucknow has not filed any counter affidavit.

In the circumstances, I deem it fit and proper to direct the Secretary, Rural Development, State of U.P., Lucknow to take decision on the representation of petitioner dated 03rd February, 2001, which is Annexure 2 to the writ petition for fixing the pay of petitioner in accordance with the relevant G.Os. within a period of six weeks from the date of production of a certified copy of this order. After fixing the pay scale of petitioner in accordance with law, the Secretary, Rural Development, U.P., Lucknow will inform the Accountant General to pay the pension of petitioner accordingly.

With this direction, the writ petition is finally disposed of.

(M.M. Ghildiyal, J.)

08.05.2007
VKS